

Senate Engrossed

State of Arizona  
Senate  
Forty-fifth Legislature  
First Regular Session  
2001

CHAPTER 255

# SENATE BILL 1084

AN ACT

AMENDING SECTIONS 12-284, 12-1809, 12-2107, 13-3602, 22-281 AND 22-404,  
ARIZONA REVISED STATUTES; RELATING TO DOMESTIC VIOLENCE AND PROTECTION  
ORDERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
 2 Section 1. Section 12-284, Arizona Revised Statutes, is amended to  
 3 read:  
 4 12-284. Fees  
 5 A. Except as otherwise provided by law, the clerk of the superior  
 6 court shall receive fees classified as follows:

7 Class	Description	Fee
8 A	Initial case filing fee	
9	Tax case	\$115.00
10	Filing complaint or petition	115.00
11	Filing intervenor	115.00
12	Additional plaintiffs	115.00
13	Filing foreign judgment	115.00
14	Ownership of real property becomes an issue	
15	Plaintiff	115.00
16	Appellant (EXCEPT UNDER SECTION 12-2107)	115.00
17	Change of venue to this county	115.00
18	Petition for change of name	115.00
19	Filing a process server application	115.00
20 B	Subsequent case filing fee	
21	Filing answer or initial appearance	\$ 61.00
22	Additional defendants	61.00
23	Notice of appeal to appellate courts	61.00
24	Cross-appeal by appellee (EXCEPT UNDER SECTION 12-2107)	61.00
25	Ownership of real property becomes an issue	
26	Defendant	61.00
27	Jurisdiction exceeded appellee	
28	(within 20 days of filing)	61.00
29	Response to show cause which does one or more of	
30	the following:	
31	1. Request affirmative or counterrelief	
32	2. Attacks process of proceedings	
33	3. Takes other affirmative action	61.00
34 C	Initial case filing fee	
35	Filing petition for annulment	\$ 91.00
36	Filing for dissolution/legal separation petition	91.00
37	Petition in formal testacy or appointment	
38	proceeding	91.00
39	Application for informal probate or informal	
40	appointment	91.00
41	Petition for supervised administration petition	
42	to appoint guardian	91.00
43	Petition to appoint conservator or make other	
44	protective order	91.00

1	Opposing petition in testacy or appointment	
2	proceedings or appointment of guardian or	
3	conservator	91.00
4	Single estate application or petition under	
5	title 14, chapter 3, section 14-3938	91.00
6	Domestic relations case for which a fee is not	
7	specifically prescribed	91.00
8	D Subsequent case filing fee	
9	Filing answer to annulment	\$ 46.00
10	Filing for dissolution/legal separation answer	46.00
11	Any person opposing contested petition if no	
12	prior payment made	46.00
13	Post-adjudication petitions in domestic	
14	relations cases	46.00
15	Post-judgment activities in probate cases	46.00
16	E Minimum clerk fee	
17	Filing power of attorney	\$ 18.00
18	Change of venue to another county transmittal	
19	fee	18.00
20	Change of venue to another county on section	
21	12-404, transmittal fee	18.00
22	Filing transcript and docketing judgment from	
23	any courts	18.00
24	Issuance of writs of: attachment, execution,	
25	possession, restitution, prohibition and	
26	enforcement of order of judgment-garnishment	18.00
27	Certified copy or abstract of marriage	
28	application or license	18.00
29	Filing oath and bond of notary public	18.00
30	Certificate of correctness of copy of record	18.00
31	Justice of peace certificate	18.00
32	Notary public certificate	18.00
33	Each certificate of clerk to any matter in	
34	clerk's record not specifically provided	18.00
35	Filing any paper or performing any act for which	
36	a fee is not specifically prescribed	18.00
37	Subpoena - (civil)	18.00
38	Research in locating a document (per year or	
39	source researched)	18.00
40	Exemplification (per certification)	18.00
41	Authentication (per certification)	18.00
42	Seal a court file	18.00
43	Reopen a sealed court file	18.00
44	Retrieve bank records	18.00

1	Reel of film alpha index per year (plus per page	
2	fee below)	18.00
3	Payment history report	18.00
4	Certification under one document certification	18.00
5	Civil traffic appeal	18.00
6	F Per page fee	
7	Making copies (on appeal and on request)	
8	per page	\$ .50
9	Making extra copies per page	.50
10	Making photographic or photostatic copies	
11	per page	.50
12	Comparison fee of papers furnished by applicant	
13	per page	.50
14	Alpha index per page	.50
15	G Special fees	
16	Filing adoption case	\$ 30.00
17	Contested adoption	15.00
18	Small claim tax case	15.00
19	<del>Filing petition against harassment</del>	<del>5.00</del>
20	<del>Domestic violence, order of protection pursuant</del>	
21	<del>to section 13-3602</del>	<del>5.00</del>
22	Marriage license and return hereof	50.00
23	Postage and handling	5.00
24	Notary services	5.00
25	Stop payment on check	10.00
26	B. The clerk of the superior court shall receive the fees prescribed	
27	in subsection A of this section for the following services:	
28	1. Making copies of papers and records required to be made by the	
29	clerk on appeal, and copies of papers and records in the clerk's office made	
30	on request in other cases, for each legal size page of original.	
31	2. Making extra copies of the papers and records mentioned in	
32	paragraph 1 of this subsection, required or requested for each page of copy	
33	of such papers and records.	
34	3. In a clerk's office, in which a photographic or photostatic method	
35	of recording is used or is available for use in cooperation with other public	
36	offices, preparing copies enumerated in paragraphs 1 and 2 of this subsection	
37	for each page of copy or fraction of a page of copy. Portions of several	
38	pages of records may be combined in one page of copy. The clerk may prepare	
39	an abstract of marriage in lieu of a reproduction of the recorded marriage	
40	license. The fee shall apply to matters whether recorded in such office by	
41	longhand, typing, electronic, photographic or photostatic methods. The fees	
42	for copies are exclusive of the fees for certification or authentication.	
43	4. Issuing a certificate as to official capacity of a notary public	
44	or justice of the peace and affixing a seal thereto.	

1           5. Each subpoena issued in a civil proceeding or filing any paper or  
2 performing any act for which a fee is not specifically prescribed by law, but  
3 the clerk shall not charge for the clerk's services in administering the oath  
4 in connection with any affidavit, petition, letters or other pleading or  
5 document which, after administration of the oath therefor, is promptly filed  
6 by the clerk and becomes a part of a case or matter of record in the office  
7 of the clerk.

8           C. In addition to the fees required by subsection A of this section,  
9 the clerk shall charge and collect a surcharge of fifteen dollars for each  
10 filing of a post-adjudication petition in a domestic relations case for which  
11 a fee presently is charged under class D in subsection A of this  
12 section. The surcharge shall be used exclusively to fund domestic relations  
13 education and mediation programs established pursuant to section  
14 25-413. Each month the clerk shall transmit the monies the clerk collects  
15 pursuant to this subsection to the county treasurer for deposit in the  
16 domestic relations education and mediation fund established by section  
17 25-413.

18           D. Excluding the monies that are collected pursuant to subsection C  
19 of this section, each month the clerk shall transmit seventy-five per cent  
20 of the monies collected for subsequent case filing fees for post-adjudication  
21 petitions in domestic relations cases under class D in subsection A of this  
22 section to the county treasurer for deposit in the expedited child support  
23 and visitation fund established pursuant to section 25-412. The remaining  
24 twenty-five per cent of the monies collected pursuant to this subsection  
25 shall be distributed pursuant to section 12-284.03.

26           E. At the commencement of each action for annulment, for dissolution  
27 of marriage or for legal separation, the petitioner shall pay to the clerk  
28 of the court the initial case filing fee for the action provided in  
29 subsection A of this section. At the time of filing a response, the  
30 respondent shall pay to the clerk of the court the subsequent case filing fee  
31 for the action provided in subsection A of this section. In each county  
32 where the superior court has established a conciliation court, the petitioner  
33 and respondent shall each pay to the clerk a sixty-five dollar fee. The  
34 monies from the additional fee shall be used to carry out the purposes of the  
35 conciliation court pursuant to title 25, chapter 3, article 7.

36           F. In garnishment matters:

37           1. A fee shall not be charged for filing an affidavit seeking only the  
38 release of exempt wages.

39           2. A fee shall not be charged for filing a garnishee's answer, for  
40 filing a judgment against the garnishee or for the issuance or return of  
41 process incident to such a judgment.

42           3. For any contest relating to or any controversion of a garnishment  
43 matter, unless the contesting party has paid an appearance fee in that cause,  
44 the required appearance fee shall be paid, except that the garnishee shall  
45 not pay a clerk's fee.

1 G. A person who is cited to appear and defend an order to show cause  
2 shall not be charged an appearance fee. The person may stipulate to or  
3 consent to the entry of an order without the payment of an appearance fee.  
4 An appearance fee shall be paid if the person is present in person or by an  
5 attorney and does one or more of the following:

- 6 1. Requests affirmative relief or counterrelief.
- 7 2. Attacks the sufficiency of process or the proceedings.
- 8 3. Takes other affirmative action.

9 H. A PETITIONER SHALL NOT BE CHARGED A FEE FOR REQUESTING AN ORDER OF  
10 PROTECTION PURSUANT TO SECTION 13-3602 OR AN INJUNCTION AGAINST HARASSMENT  
11 PURSUANT TO SECTION 12-1809. A defendant shall not be charged an answer fee  
12 in an order of protection action if the defendant requests a hearing pursuant  
13 to section 13-3602, subsection I or in an injunction against harassment  
14 action if the defendant requests a hearing pursuant to section 12-1809,  
15 subsection ~~G~~ H.

16 I. A person who files a registrar's order pursuant to section  
17 32-1166.06 shall not be charged a fee.

18 J. Except for monies that are collected pursuant to subsections C, D  
19 and E of this section, the clerk of the superior court shall transmit monthly  
20 to the county treasurer all monies collected pursuant to this section for  
21 distribution or deposit pursuant to section 12-284.03.

22 Sec. 2. Section 12-1809, Arizona Revised Statutes, is amended to read:

23 12-1809. Injunction against harassment; petition; venue; fees;  
24 notices; enforcement; definition

25 A. A person may file a verified petition with a magistrate, justice  
26 of the peace or superior court judge for an injunction prohibiting  
27 harassment. If the person is a minor, the parent, legal guardian or person  
28 who has legal custody of the minor shall file the petition unless the court  
29 determines otherwise. The petition shall name the parent, guardian or  
30 custodian as the plaintiff, and the minor is a specifically designated person  
31 for the purposes of subsection F of this section. If a person is either  
32 temporarily or permanently unable to request an injunction, a third party may  
33 request an injunction on behalf of the plaintiff. After the request, the  
34 judicial officer shall determine if the third party is an appropriate  
35 requesting party for the plaintiff. Notwithstanding the location of the  
36 plaintiff or defendant, any court in this state may issue or enforce an  
37 injunction against harassment.

38 B. An injunction against harassment shall not be granted:

- 39 1. Unless the party who requests the injunction files a written  
40 verified petition for injunction.
- 41 2. Against a person who is less than twelve years of age unless the  
42 injunction is granted by the juvenile division of the superior court.
- 43 3. Against more than one defendant.

1 C. The petition shall state all of the following:

2 1. The name of the plaintiff. The plaintiff's address shall be  
3 disclosed to the court for purposes of service. If the address of the  
4 plaintiff is unknown to the defendant, the plaintiff may request that the  
5 address be protected. On the plaintiff's request, the address shall not be  
6 listed on the petition. Whether the court issues an injunction against  
7 harassment, the protected address shall be maintained in a separate document  
8 or automated data base DATABASE and is not subject to release or disclosure  
9 by the court or any form of public access except as ordered by the court.

10 2. The name and address, if known, of the defendant.

11 3. A specific statement showing events and dates of the acts  
12 constituting the alleged harassment.

13 4. The name of the court in which there was or is any prior or pending  
14 proceeding or order concerning the conduct which is sought to be restrained.

15 5. The relief requested.

16 ~~D. The filing fee for a petition filed under this section is~~  
17 ~~established pursuant to sections 12-284, 22-281 and 22-404. Filing fees and~~  
18 ~~A FEE SHALL NOT BE CHARGED FOR FILING A PETITION UNDER THIS SECTION. Fees~~  
19 ~~for service of process may be deferred or waived under any rule or law~~  
20 ~~applicable to civil actions. The court shall advise a plaintiff that the~~  
21 ~~plaintiff may be eligible for the deferral or waiver of these fees at the~~  
22 ~~time the plaintiff files a petition. The court shall not require the~~  
23 ~~petitioner to perform community service as a condition of the waiver or~~  
24 ~~deferral of filing fees and fees for service of process. A law enforcement~~  
25 ~~agency or constable shall not require the advance payment of fees for service~~  
26 ~~of process of injunctions against harassment. If the court does not waive~~  
27 ~~the fees, the serving agency may assess the actual fees against the~~  
28 ~~plaintiff. On request of the plaintiff, each AN injunction against~~  
29 ~~harassment issued by a municipal court may be served by the police agency for~~  
30 ~~that city if the defendant can be served within the city. If the defendant~~  
31 ~~cannot be served within the city, the police agency in the city in which the~~  
32 ~~defendant can be served may serve the order INJUNCTION. On request of the~~  
33 ~~plaintiff, each injunction against harassment issued by a justice of the~~  
34 ~~peace shall be served by the constable for that jurisdiction if the defendant~~  
35 ~~can be served within the jurisdiction. If the defendant cannot be served~~  
36 ~~within that jurisdiction, the constable in the jurisdiction in which the~~  
37 ~~defendant can be served shall serve the order INJUNCTION. On request of the~~  
38 ~~plaintiff each, AN injunction against harassment issued by a superior court~~  
39 ~~judge or commissioner may be served by the sheriff of the county. If the~~  
40 ~~defendant cannot be served within that jurisdiction, the sheriff in the~~  
41 ~~jurisdiction in which the defendant can be served may serve the order. The~~  
42 ~~court shall provide, without charge, forms for purposes of this section for~~  
43 ~~assisting parties without counsel.~~

44 E. The court shall review the petition, any other pleadings on file  
45 and any evidence offered by the plaintiff to determine whether the injunction

1 requested should issue without a further hearing. Rules 65(a)(1) and 65(e)  
2 of the Arizona rules of civil procedure do not apply to injunctions requested  
3 pursuant to this section. If the court finds reasonable evidence of  
4 harassment of the plaintiff by the defendant during the year preceding the  
5 filing of the petition or that good cause exists to believe that great or  
6 irreparable harm would result to the plaintiff if the injunction is not  
7 granted before the defendant or the defendant's attorney can be heard in  
8 opposition and the court finds specific facts attesting to the plaintiff's  
9 efforts to give notice to the defendant or reasons supporting the plaintiff's  
10 claim that notice should not be given, the court shall issue an injunction  
11 as provided for in subsection F of this section. If the court denies the  
12 requested relief, it may schedule a further hearing within ten days with  
13 reasonable notice to the defendant. For purposes of determining the one year  
14 period, any time that the defendant has been incarcerated or out of this  
15 state shall not be counted.

16 F. If the court issues an injunction, the court may do any of the  
17 following:

18 1. Enjoin the defendant from committing a violation of one or more  
19 acts of harassment.

20 2. Restrain the defendant from contacting the plaintiff or other  
21 specifically designated persons and from coming near the residence, place of  
22 employment or school of the plaintiff or other specifically designated  
23 locations or persons.

24 3. Grant relief necessary for the protection of the alleged victim and  
25 other specifically designated persons proper under the circumstances.

26 G. The court shall not grant a mutual injunction against harassment.  
27 If opposing parties separately file verified petitions for an injunction  
28 against harassment, the courts after consultation between the judicial  
29 officers involved may consolidate the petitions of the opposing parties for  
30 hearing. This does not prohibit a court from issuing cross injunctions  
31 against harassment.

32 H. At any time during the period during which the injunction is in  
33 effect, the defendant is entitled to one hearing on written request. NO FEE  
34 MAY BE CHARGED FOR REQUESTING A HEARING. A hearing requested by a defendant  
35 shall be held within ten days from the date requested unless the court finds  
36 compelling reasons to continue the hearing. The hearing shall be held at the  
37 earliest possible time. An ex parte injunction issued under this section  
38 shall state on its face that the defendant is entitled to a hearing on  
39 written request and shall include the name and address of the judicial office  
40 where the request may be filed. After the hearing, the court may modify,  
41 quash or continue the injunction.



1 I. The injunction shall include the following statement:

2 Warning

3 This is an official court order. If you disobey this  
4 order, you may be arrested and prosecuted for the crime of  
5 interfering with judicial proceedings and any other crime you  
6 may have committed in disobeying this order.

7 J. A copy of the petition and the injunction shall be served on the  
8 defendant within one year from the date the injunction is signed. An  
9 injunction that is not served on the defendant within one year expires. The  
10 injunction is effective on the defendant on service of a copy of the  
11 injunction and petition and expires ~~six months~~ ONE YEAR after service on the  
12 defendant. A modified injunction is effective upon service and expires six  
13 months ONE YEAR after service of the initial injunction and petition.  
14 ~~Beginning on January 1, 1999, an injunction expires one year after service~~  
15 ~~on the defendant and a modified injunction expires one year after service of~~  
16 ~~the initial injunction and petition.~~

17 K. Each affidavit, acceptance or return of service shall be promptly  
18 filed with the clerk of the issuing court. This filing shall be completed  
19 in person, shall be made by fax or shall be postmarked, if sent by mail, no  
20 later than the end of the seventh court business day after the date of  
21 service. If the filing is made by fax, the original affidavit, acceptance  
22 or return of service shall be promptly filed with the court. Within  
23 twenty-four hours after the affidavit, acceptance or return of service has  
24 been filed, excluding weekends and holidays, the court from which the  
25 injunction was issued shall register FORWARD TO THE SHERIFF OF THE COUNTY IN  
26 WHICH THE COURT IS LOCATED a copy of the injunction and a copy of the  
27 affidavit OR CERTIFICATE of service of process or acceptance of service with  
28 ~~the sheriff's office in the county in which the plaintiff resides. ON~~  
29 ~~RECEIVING THESE COPIES, THE SHERIFF SHALL REGISTER THE INJUNCTION.~~  
30 Registration of an injunction means that a copy of the injunction and a copy  
31 of the affidavit OR CERTIFICATE OF SERVICE OF PROCESS or acceptance of  
32 service have been received by the sheriff's office. The sheriff shall  
33 maintain a central repository for injunctions so that the existence and  
34 validity of the injunctions can be easily verified. The effectiveness of an  
35 injunction does not depend on its registration, and for enforcement purposes  
36 pursuant to section 13-2810, a copy of an injunction, whether or not  
37 registered, is presumed to be a valid existing order of the court for a  
38 period of ~~six months~~ ONE YEAR from the date of service of the injunction on  
39 the defendant. ~~Beginning on January 1, 1999, a copy of an injunction,~~  
40 ~~whether or not registered, is presumed to be a valid existing order of the~~  
41 ~~court for a period of one year from the date of service of the injunction on~~  
42 ~~the defendant.~~ Any changes or modifications of the injunction are effective  
43 on entry by the court and shall be registered with the sheriff within  
44 twenty-four hours of the entry, excluding weekends and holidays.

1 L. A peace officer may, with or without a warrant, arrest a person if  
2 the peace officer has probable cause to believe that the person has violated  
3 section 13-2810 by disobeying or resisting an injunction issued pursuant to  
4 this section, whether or not the violation occurred in the presence of the  
5 officer. The provisions for release under section 13-3903 do not apply to  
6 an arrest made pursuant to this subsection. A person arrested pursuant to  
7 this subsection may be released from custody in accordance with the Arizona  
8 rules of criminal procedure or any other applicable statute. An order for  
9 release, with or without an appearance bond, shall include pretrial release  
10 conditions necessary to provide for the protection of the alleged victim and  
11 other specifically designated persons and may provide for additional  
12 conditions which the court deems appropriate, including participation in any  
13 counseling programs available to the defendant.

14 M. If a peace officer responds to a call alleging that harassment has  
15 been or may be committed, the officer shall inform in writing any alleged or  
16 potential victim of the procedures and resources available for the protection  
17 of the victim including:

- 18 1. An injunction pursuant to this section.
- 19 2. The emergency telephone number for the local police agency.
- 20 3. Telephone numbers for emergency services in the local community.

21 N. The remedies provided in this section for enforcement of the orders  
22 of the court are in addition to any other civil and criminal remedies  
23 available. The municipal court and the justice court may hear and decide all  
24 matters arising pursuant to this section. After a hearing with notice to the  
25 affected party, the court may enter an order requiring any party to pay the  
26 costs of the action, including reasonable attorney fees, if any. An order  
27 entered by a justice court or municipal court after a hearing pursuant to  
28 this section may be appealed to the superior court as provided in title 22,  
29 chapter 2, article 4, section 22-425, subsection B and the superior court  
30 rules of civil appellate procedure without regard to an amount in  
31 controversy. NO FEE MAY BE CHARGED TO EITHER PARTY FOR FILING AN APPEAL.

32 O. A peace officer making an arrest pursuant to this section is not  
33 civilly or criminally liable for the arrest if the officer acts on probable  
34 cause and without malice. A peace officer is not civilly liable for  
35 noncompliance with subsection M of this section.

36 P. This section does not apply to preliminary injunctions issued  
37 pursuant to an action for dissolution of marriage or legal separation or for  
38 protective orders against domestic violence.

39 Q. In addition to the persons who are authorized to serve process  
40 pursuant to rule 4(d), Arizona rules of civil procedure, a peace officer or  
41 a correctional officer as defined in section 41-1661 who is acting in the  
42 officer's official capacity may serve an injunction against harassment that  
43 is issued pursuant to this section.

44 R. In this section, "harassment" means a series of acts over any  
45 period of time that is directed at a specific person and that would cause a

1 reasonable person to be seriously alarmed, annoyed or harassed and the  
2 conduct in fact seriously alarms, annoys or harasses the person and serves  
3 no legitimate purpose.

4 Sec. 3. Section 12-2107, Arizona Revised Statutes, is amended to read:

5 12-2107. Filing fees on appeal; exception

6 A. The appellant in a civil action appealed to the court of appeals  
7 or the supreme court, as the case may be, shall upon filing the notice of the  
8 appeal pay to the clerk of the superior court IN THE COUNTY from which the  
9 action is appealed a filing fee established pursuant to section 12-284. This  
10 fee is exclusive of the per page copy fee prescribed by section 12-284. If  
11 an appellee files a cross appeal in the same case a filing fee established  
12 pursuant to section 12-284 shall be paid to the clerk of the superior court.

13 B. A FILING FEE SHALL NOT BE CHARGED TO AN APPELLANT FOR FILING AN  
14 APPEAL, OR TO AN APPELLEE FILING A CROSS APPEAL IN THE SAME CASE, TO THE  
15 COURT OF APPEALS OR TO THE SUPREME COURT FROM AN ORDER:

16 1. GRANTING OR DENYING A PETITION FOR AN ORDER OF PROTECTION UNDER  
17 SECTION 13-3602.

18 2. GRANTING OR DENYING AN INJUNCTION AGAINST HARASSMENT UNDER SECTION  
19 12-1809.

20 3. QUASHING AN ORDER OF PROTECTION OR INJUNCTION AGAINST HARASSMENT.

21 Sec. 4. Section 13-3602, Arizona Revised Statutes, is amended to read:

22 13-3602. Order of protection; procedure; contents; arrest for  
23 violation; penalty; protection order from another  
24 jurisdiction

25 A. A person may file a verified petition, as in civil actions, with  
26 a magistrate, justice of the peace or superior court judge for an order of  
27 protection for the purpose of restraining a person from committing an act  
28 included in domestic violence. If the person is a minor, the parent, legal  
29 guardian or person who has legal custody of the minor shall file the petition  
30 unless the court determines otherwise. The petition shall name the parent,  
31 guardian or custodian as the plaintiff and the minor is a specifically  
32 designated person for the purposes of subsection G of this section. If a  
33 person is either temporarily or permanently unable to request an order, a  
34 third party may request an order of protection on behalf of the  
35 plaintiff. After the request, the judicial officer shall determine if the  
36 third party is an appropriate requesting party for the plaintiff. For the  
37 purposes of this section, notwithstanding the location of the plaintiff or  
38 defendant, any court in this state may issue or enforce an order of  
39 protection.

40 B. An order of protection shall not be granted:

41 1. Unless the party who requests the order files a written verified  
42 petition for an order.

43 2. Against a person who is less than twelve years of age unless the  
44 order is granted by the juvenile division of the superior court.

45 3. Against more than one defendant.

1 C. The petition shall state the:

2 1. Name of the plaintiff. The plaintiff's address shall be disclosed  
3 to the court for purposes of service. If the address of the plaintiff is  
4 unknown to the defendant, the plaintiff may request that the address be  
5 protected. On the plaintiff's request, the address shall not be listed on  
6 the petition. Whether the court issues an order of protection, the protected  
7 address shall be maintained in a separate document or automated data base  
8 DATABASE and is not subject to release or disclosure by the court or any form  
9 of public access except as ordered by the court.

10 2. Name and address, if known, of the defendant.

11 3. Specific statement, including dates, of the domestic violence  
12 alleged.

13 4. Relationship between the parties pursuant to section 13-3601,  
14 subsection A and whether there is pending between the parties an action for  
15 annulment, legal separation or dissolution of marriage.

16 5. Name of the court in which any prior or pending proceeding or order  
17 was sought or issued concerning the conduct which is sought to be restrained.

18 6. Desired relief.

19 D. ~~The amount and payment of filing fees for a petition filed under~~  
20 ~~this section are established pursuant to sections 12-284, 22-281 and 22-404.~~  
21 ~~Filing fees and~~ A FEE SHALL NOT BE CHARGED FOR FILING A PETITION UNDER THIS  
22 SECTION. Fees for service of process may be deferred or waived under any  
23 rule, statute or other law applicable to civil actions. The court shall  
24 advise a plaintiff that the plaintiff may be eligible for the deferral or  
25 waiver of these fees at the time the plaintiff files the petition. The court  
26 shall not require the petitioner to perform community service as a condition  
27 of the waiver or deferral of ~~filing fees and~~ fees for service of process. A  
28 law enforcement agency or constable shall not require the advance payment of  
29 fees for service of process of orders of protection. If the court does not  
30 waive the fees, the serving agency may assess the actual fees against the  
31 plaintiff. On request of the plaintiff, each order of protection issued by  
32 a municipal court shall be served by the police agency for that city if the  
33 defendant can be served within the city. If the defendant cannot be served  
34 within the city, the police agency in the city in which the defendant can be  
35 served shall serve the order. If the order cannot be served within a city,  
36 the sheriff shall serve the order. On request of the plaintiff, each order  
37 of protection issued by a justice of the peace shall be served by the  
38 constable or sheriff for that jurisdiction if the defendant can be served  
39 within the jurisdiction. If the defendant cannot be served within that  
40 jurisdiction, the constable or sheriff in the jurisdiction in which the  
41 defendant can be served shall serve the order. On request of the plaintiff,  
42 each order of protection issued by a superior court judge or commissioner  
43 shall be served by the sheriff of the county. If the defendant cannot be  
44 served within that jurisdiction, the sheriff in the jurisdiction in which the  
45 defendant can be served shall serve the order. Each court shall provide,

1 without charge, forms for purposes of this section for assisting parties  
2 without counsel. The court shall make reasonable efforts to provide to both  
3 parties an appropriate information sheet on emergency and counseling services  
4 that are available in the local area.

5 E. The court shall review the petition, any other pleadings on file  
6 and any evidence offered by the plaintiff to determine whether the orders  
7 requested should issue without further hearing. The court shall issue an  
8 order of protection under subsection G of this section if the court  
9 determines that there is reasonable cause to believe any of the following:

10 1. The defendant may commit an act of domestic violence.

11 2. The defendant has committed an act of domestic violence within the  
12 past year or within a longer period of time if the court finds that good  
13 cause exists to consider a longer period.

14 F. For purposes of determining the period of time under subsection E,  
15 paragraph 2 of this section, any time that the defendant has been  
16 incarcerated or out of this state shall not be counted. If the court denies  
17 the requested relief, it may schedule a further hearing within ten days, with  
18 reasonable notice to the defendant.

19 G. If a court issues an order of protection, the court may do any of  
20 the following:

21 1. Enjoin the defendant from committing a violation of one or more of  
22 the offenses included in domestic violence.

23 2. Grant one party the use and exclusive possession of the parties'  
24 residence on a showing that there is reasonable cause to believe that  
25 physical harm may otherwise result. If the other party is accompanied by a  
26 law enforcement officer, the other party may return to the residence on one  
27 occasion to retrieve belongings. A law enforcement officer is not liable for  
28 any act or omission in the good faith exercise of the officer's duties under  
29 this paragraph.

30 3. Restrain the defendant from contacting the plaintiff or other  
31 specifically designated persons and from coming near the residence, place of  
32 employment or school of the plaintiff or other specifically designated  
33 locations or persons on a showing that there is reasonable cause to believe  
34 that physical harm may otherwise result.

35 4. If the court finds that the defendant is a credible threat to the  
36 physical safety of the plaintiff or other specifically designated persons,  
37 prohibit the defendant from possessing or purchasing a firearm for the  
38 duration of the order. If the court prohibits the defendant from possessing  
39 a firearm, the court shall also order the defendant to transfer any firearm  
40 owned or possessed by the defendant immediately after service of the order  
41 to the appropriate law enforcement agency for the duration of the order. If  
42 the defendant does not immediately transfer the firearm, the defendant shall  
43 transfer the firearm within twenty-four hours after service of the order.

44 5. If the order was issued after notice and a hearing at which the  
45 defendant had an opportunity to participate, require the defendant to

1 complete a domestic violence offender treatment program that is provided by  
2 a facility approved by the department of health services or a probation  
3 department or any other program deemed appropriate by the court.

4 6. Grant relief that is necessary for the protection of the alleged  
5 victim and other specifically designated persons and that is proper under the  
6 circumstances.

7 H. The court shall not grant a mutual order of protection. If  
8 opposing parties separately file verified petitions for an order of  
9 protection, the courts after consultation between the judges involved may  
10 consolidate the petitions of the opposing parties for hearing. This does not  
11 prohibit a court from issuing cross orders of protection.

12 I. At any time during the period during which the order is in effect,  
13 a party under an order of protection or restrained from contacting the other  
14 party is entitled to one hearing on written request. NO FEE MAY BE CHARGED  
15 FOR REQUESTING A HEARING. A hearing requested by a party under an order of  
16 protection or restrained from contacting the other party shall be held within  
17 ten days from the date requested unless the court finds good cause to  
18 continue the hearing. If exclusive use of the home is awarded, the hearing  
19 shall be held within five days from the date requested. The hearing shall be  
20 held at the earliest possible time. An ex parte order issued under this  
21 section shall state on its face that the defendant is entitled to a hearing  
22 on written request and shall include the name and address of the judicial  
23 office where the request may be filed. After the hearing, the court may  
24 modify, quash or continue the order.

25 J. The order shall include the following statement:

26 Warning

27 This is an official court order. If you disobey this  
28 order, you may be arrested and prosecuted for the crime of  
29 interfering with judicial proceedings and any other crime you  
30 may have committed in disobeying this order.

31 K. A copy of the petition and the order shall be served on the  
32 defendant within one year from the date the order is signed. An order of  
33 protection that is not served on the defendant within one year expires. An  
34 order is effective on the defendant on service of a copy of the order and  
35 petition. An order expires ~~six months~~ ONE YEAR after service on the  
36 defendant. A modified order is effective upon service and expires ~~six months~~  
37 ONE YEAR after service of the initial order and petition. ~~Beginning on~~  
38 ~~January 1, 1999, an order expires one year after service on the defendant and~~  
39 ~~a modified order expires one year after service of the initial order and~~  
40 ~~petition.~~

41 L. Each affidavit, acceptance or return of service shall be promptly  
42 filed with the clerk of the issuing court. This filing shall be completed  
43 in person, shall be made by fax or shall be postmarked, if sent by mail, no  
44 later than the end of the seventh court business day after the date of  
45 service. If the filing is made by fax, the original affidavit, acceptance

1 or return of service shall be promptly filed with the court. Within  
2 twenty-four hours after the affidavit, acceptance or return of service has  
3 been filed, excluding weekends and holidays, the court from which the order  
4 was issued shall register FORWARD TO THE SHERIFF OF THE COUNTY IN WHICH THE  
5 COURT IS LOCATED a copy of the order of protection and a copy of the  
6 affidavit OR CERTIFICATE of service of process or acceptance of service with  
7 ~~the sheriff's office in the county in which the plaintiff resides.~~ ON  
8 RECEIVING THESE COPIES, THE SHERIFF SHALL REGISTER THE ORDER. Registration  
9 of an order means that a copy of the order of protection and a copy of the  
10 affidavit or acceptance of service have been received by the sheriff's  
11 office. The sheriff shall maintain a central repository for orders of  
12 protection so that the existence and validity of the orders can be easily  
13 verified. The effectiveness of an order does not depend on its registration,  
14 and for enforcement purposes pursuant to section 13-2810, a copy of an order  
15 of the court, whether or not registered, is presumed to be a valid existing  
16 order of the court for a period of six months ~~ONE YEAR~~ from the date of  
17 service of the order on the defendant. ~~Beginning on January 1, 1999, a copy~~  
18 ~~of an order, whether or not registered, is presumed to be a valid existing~~  
19 ~~order of the court for a period of one year from the date of service of the~~  
20 ~~injunction on the defendant.~~ Any changes or modifications of the order are  
21 effective upon entry of an order of the court and shall be registered with  
22 the sheriff within twenty-four hours of the entry of the order, excluding  
23 weekends and holidays.

24 M. A peace officer may, with or without a warrant, arrest a person if  
25 the peace officer has probable cause to believe that the person has violated  
26 section 13-2810 by disobeying or resisting an order issued in any  
27 jurisdiction in this state pursuant to this section, whether or not such  
28 violation occurred in the presence of the officer. Criminal violations of  
29 an order issued pursuant to this section shall be referred to an appropriate  
30 law enforcement agency. The law enforcement agency shall request that a  
31 prosecutorial agency file the appropriate charges. A violation of an order  
32 of protection shall not be adjudicated by a municipal or justice court unless  
33 a complaint has been filed or other legal process has been requested by the  
34 prosecuting agency. The provisions for release under section 13-3883,  
35 subsection A, paragraph 4 and section 13-3903 do not apply to an arrest made  
36 pursuant to this section. For purposes of this section, any court in this  
37 state has jurisdiction to enforce a valid order of protection that is issued  
38 in this state and that has been violated in any jurisdiction in this state.

39 N. A person arrested pursuant to subsection M of this section may be  
40 released from custody in accordance with the Arizona rules of criminal  
41 procedure or any other applicable statute. An order for release, with or  
42 without an appearance bond, shall include pretrial release conditions  
43 necessary to provide for the protection of the alleged victim and other  
44 specifically designated persons and may provide for additional conditions

1 which the court deems appropriate, including participation in any counseling  
2 programs available to the defendant.

3 0. The remedies provided in this section for enforcement of the orders  
4 of the court are in addition to any other civil and criminal remedies  
5 available. The superior court shall have exclusive jurisdiction to issue  
6 orders of protection in all cases if it appears from the petition that an  
7 action for maternity or paternity, annulment, legal separation or dissolution  
8 of marriage is pending between the parties. A municipal court or justice  
9 court shall not issue an order of protection if it appears from the petition  
10 that an action for maternity or paternity, annulment, legal separation or  
11 dissolution of marriage is pending between the parties. After issuance of  
12 an order of protection, if the municipal court or justice court determines  
13 that an action for maternity or paternity, annulment, legal separation or  
14 dissolution of marriage is pending between the parties, the municipal court  
15 or justice court shall stop further proceedings in the action and forward all  
16 papers, together with a certified copy of docket entries or any other record  
17 in the action, to the superior court where they shall be docketed in the  
18 pending superior court action and shall proceed as though the petition for  
19 an order of protection had been originally brought in the superior  
20 court. Notwithstanding any other law and unless prohibited by an order of  
21 the superior court, a municipal court or justice court may hold a hearing on  
22 all matters relating to its ex parte order of protection if the hearing was  
23 requested before receiving written notice of the pending superior court  
24 action. No order of protection shall be invalid or determined to be  
25 ineffective merely because it was issued by a lower court at a time when an  
26 action for maternity or paternity, annulment, legal separation or dissolution  
27 of marriage was pending in a higher court. After a hearing with notice to  
28 the affected party, the court may enter an order requiring any party to pay  
29 the costs of the action, including reasonable attorney fees, if any. An  
30 order entered by a justice court or municipal court after a hearing pursuant  
31 to this section may be appealed to the superior court as provided in title  
32 22, chapter 2, article 4, section 22-425, subsection B and the superior court  
33 rules of civil appellate procedure without regard to an amount in  
34 controversy. NO FEE MAY BE CHARGED TO EITHER PARTY FOR FILING AN  
35 APPEAL. For the purposes of this subsection, "pending" means, with respect  
36 to an action for annulment, legal separation or dissolution of marriage or  
37 for maternity or paternity, either that:

38 1. An action has been commenced but a final judgment, decree or order  
39 has not been entered.

40 2. A post-decree proceeding has been commenced but a judgment, decree  
41 or order finally determining the proceeding has not been entered.

42 P. A peace officer making an arrest pursuant to this section or  
43 section 13-3601 is not civilly or criminally liable for such arrest if the  
44 officer acts upon probable cause and without malice.



1 Q. In addition to persons authorized to serve process pursuant to rule  
2 4(d) of the Arizona rules of civil procedure, a peace officer or a  
3 correctional officer as defined in section 41-1661 who is acting in the  
4 officer's official capacity may serve an order of protection issued pursuant  
5 to this section. Service of the order of protection has priority over other  
6 service of process that does not involve an immediate threat to the safety  
7 of a person.

8 R. A valid protection order that is related to domestic or family  
9 violence and that is issued by a court in another state, a court of a United  
10 States territory or a tribal court shall be accorded full faith and credit  
11 and shall be enforced as if it were issued in this state for as long as the  
12 order is effective in the issuing jurisdiction. For the purposes of this  
13 subsection:

14 1. A protection order includes any injunction or other order that is  
15 issued for the purpose of preventing violent or threatening acts or  
16 harassment against, contact or communication with or physical proximity to  
17 another person. A protection order includes temporary and final orders other  
18 than support or child custody orders that are issued by civil and criminal  
19 courts if the order is obtained by the filing of an independent action or is  
20 a pendente lite order in another proceeding. The civil order shall be issued  
21 in response to a complaint, petition or motion that was filed by or on behalf  
22 of a person seeking protection.

23 2. A protection order is valid if the issuing court had jurisdiction  
24 over the parties and the matter under the laws of the issuing state, a United  
25 States territory or an Indian tribe and the person against whom the order was  
26 issued had reasonable notice and an opportunity to be heard. If the order  
27 is issued ex parte, the notice and opportunity to be heard shall be provided  
28 within the time required by the laws of the issuing state, a United States  
29 territory or an Indian tribe and within a reasonable time after the order was  
30 issued.

31 3. A mutual protection order that is issued against both the party who  
32 filed a petition or a complaint or otherwise filed a written pleading for  
33 protection against abuse and the person against whom the filing was made is  
34 not entitled to full faith and credit if either:

35 (a) The person against whom an initial order was sought has not filed  
36 a cross or counter petition or other written pleading seeking a protection  
37 order.

38 (b) The issuing court failed to make specific findings supporting the  
39 entitlement of both parties to be granted a protection order.

40 4. A peace officer may presume the validity of and rely on a copy of  
41 a protection order that is issued by another state, a United States territory  
42 or an Indian tribe if the order was given to the officer by any source. A  
43 peace officer may also rely on the statement of any person who is protected  
44 by the order that the order remains in effect. A peace officer who acts in

1 good faith reliance on a protection order is not civilly or criminally liable  
2 for enforcing the protection order pursuant to this section.

3 Sec. 5. Section 22-281, Arizona Revised Statutes, is amended to read:  
4 22-281. Fees and deposits

5 A. Justices of the peace shall receive fees established and classified  
6 as follows in civil actions:

7 Class	Description	Fee
8 A	Initial case filing fee	
9	Civil filing fees	\$ 45.00
10 B	Subsequent case filing fee	
11	Civil filing fees - defendant	\$ 24.00
12 C	Initial case filing fee	
13	Forcible entry and detainer filings	\$ 21.00
14	Small claims filing	16.00
15 D	Subsequent case filing fee	
16	Small claims answer	\$ 9.00
17	Forcible entry and detainer filings - defendant	11.00
18 E	Minimum clerk fee	
19	Document and transcript transfer on appeal	\$ 17.00
20	Certification of any documents	17.00
21	Issuance of writs	17.00
22	Filing any paper or performing any act for	
23	which a fee is not specifically prescribed	17.00
24	Filing power of attorney	17.00
25	Certificate of correctness of copy of record	17.00
26	Each certificate of clerk to any matter	17.00
27	Subpoena (civil)	17.00
28	Research in locating a document	17.00
29	Exemplification	17.00
30	Seal a court file	17.00
31	Reopen a sealed court file	17.00
32	Retrieve bank records	17.00
33	Payment history report	17.00
34	Audiotape copy	17.00
35 F	Per page fee	
36	Copies of any documents per page	\$ 0.50
37 G	Special fees	
38	<del>Injunction against harassment</del>	<del>\$ 5.00</del>
39	<del>Domestic violence, order of protection pursuant</del>	
40	<del>to section 13-3602</del>	5.00
41	Notary services	\$ 4.00
42	Small claims service by mail	3.00

43 B. This section does not deprive the parties to the action of the  
44 privilege of depositing amounts with the justice, in addition to those set  
45 forth in this section, for use in connection with payment of constable's and

1 sheriff's fees for service of process, levying of writs, and other services  
2 for which fees are otherwise provided by law.

3 C. Excluding the monies that are kept by the court pursuant to  
4 subsection D of this section, justices of the peace shall transmit monthly  
5 to the county treasurer all monies collected pursuant to subsection A of this  
6 section. The county treasurer shall distribute or deposit all of the monies  
7 received pursuant to this subsection as follows:

8 1. 18.39 per cent to the state treasurer for deposit in the judicial  
9 collection enhancement fund established by section 12-113.

10 2. 2.42 per cent to the state treasurer for deposit in the alternative  
11 dispute resolution fund established by section 12-135.

12 3. 71.15 per cent to the county general fund.

13 D. 8.04 per cent of the monies transmitted pursuant to subsection C  
14 of this section shall be kept and used by the court collecting the fees in  
15 the same manner as the seven dollars of the time payment fee prescribed by  
16 section 12-116, subsection B.

17 Sec. 6. Section 22-404, Arizona Revised Statutes, is amended to read:

18 22-404. Disposition of fines and forfeitures

19 A. All fines and forfeitures collected in a municipal court maintained  
20 by a city or town which pays the salaries of the municipal court officers  
21 shall be paid to the treasurer of the city or town in which the court is  
22 located.

23 B. Except as otherwise provided by law, fees for the municipal court  
24 shall be established and classified as follows:

25 Class	Description	Fee
26 E	Minimum clerk fee	
27	Research in locating a document	17.00
28	Each certificate of clerk to any matter	17.00
29	Payment history report	17.00
30 F	Per page fee	
31	Copies of any documents per page	\$ 0.50
32 G	Special fees	
33	<del>Injunction against harassment</del>	<del>\$ 5.00</del>
34	<del>Domestic violence, order of protection pursuant</del>	
35	<del>to section 13-3602</del>	<del>5.00</del>
36	Notary services	\$ 4.00

37 C. Excluding the monies that are kept by the court pursuant to  
38 subsection D of this section, the municipal court shall monthly transmit all  
39 monies that are collected pursuant to subsection B of this section to the  
40 city or town treasurer. The city or town treasurer shall distribute or  
41 deposit all of the monies received pursuant to this subsection as follows:

42 1. 19.18 per cent to the state treasurer for deposit in the judicial  
43 collection enhancement fund established by section 12-113.

- 1           2. 72.51 per cent to the city or town general fund.
- 2           D. 8.31 per cent of the monies transmitted pursuant to subsection C
- 3 of this section shall be kept and used by the court collecting the fees in
- 4 the same manner as the seven dollars of the time payment fee prescribed by
- 5 section 12-116, subsection B.
- 6           E. A city or town may establish and assess fees for court programs and
- 7 services.

APPROVED BY THE GOVERNOR APRIL 26, 2001.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 27, 2001.

Passed the House April 23, 2001,

by the following vote: 47 Ayes,

2 Nays, 11 Not Voting

Passed the Senate February 14, 2001,

by the following vote: 30 Ayes,

0 Nays, 0 Not Voting

Jake Flake  
Speaker of the House  
Pro Tempore

Rancho Sant  
President of the Senate

Charmine Bellington  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

24 day of April, 2001,

at 10:27 o'clock A M.

Sandra Gandy  
Secretary to the Governor

Approved this 26 day of

April, 2001,

at 10:50 o'clock P M.

Jane Dee Hull  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 27 day of April, 2001,

at 3:45 o'clock P M.

Betsy Bayless  
Secretary of State

S.B. 1084